

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

GREGG DARIUS AZIN, M.D.,

Plaintiff,

v.

**DENNIS McDONOUGH, SECRETARY,
U.S. DEPARTMENT OF VETERANS
AFFAIRS,**

Defendant.

Case No. 3:21-cv-705-YY

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Youlee Yim You issued Findings and Recommendation in this case on October 29, 2021. ECF 29. Judge You recommended that the Court deny Defendant's motion to dismiss for lack of subject matter jurisdiction and for failure to state a claim. No party has filed objections.

Under the Federal Magistrates Act (Act), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files an objection to a magistrate judge's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified

proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3). If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge You’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge You’s Findings and Recommendation, ECF 29. The Court DENIES Defendant’s motion to dismiss for lack of subject matter jurisdiction and for failure to state a claim, ECF 12.

IT IS SO ORDERED.

DATED this 16th day of November, 2021.

/s/ *Michael H. Simon*
 Michael H. Simon
 United States District Judge